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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,370	10/14/2004	Helmut Tiesler-Wittig	DE 020095	8700

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

DONG, DALEI

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/511,370	TIESLER-WITTIG, HELMUT	
	Examiner	Art Unit	
	Dalei Dong	2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment filed on October 9, 2006, has been entered and acknowledged by the Examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4 and 6-8 rejected under 35 U.S.C. 102(b) as being anticipated by European Patent No. 0,935,277 to Tanaka.

Regarding to claim 1, Tanaka discloses in Figure 1, a gas-discharge lamp having a discharge vessel (1), two electrodes (2), a cap (7), an outer envelope (6), and a filling in the discharge vessel (1) comprising a metal halide (see column 5, lines 34-45), characterized in that the outer envelope (6) is partially coated with an optical compensating filter (14 and 15) of a color complementary to the color of the metal halide.

Regarding to claim 2, Tanaka discloses in Figure 1, the compensating filter (14 and 15) is applied in that region of the outer envelope (6) that is the bottom region of the outer envelope (6) when the lamp is fitted and operating.

Regarding to claim 4, Tanaka discloses in Figure 1, the compensating filter (14 and 15) comprises an absorption filter (see column 6, lines 5-23).

Regarding to claim 6, Tanaka discloses in Figure 1, the compensating filter (14 and 15) is applied in that region of the outer envelope (6) that, in a lamp which is fitted and operating, is adjacent that region of the discharge vessel (1) in which the non-gaseous proportion of the metal halide is situated.

Regarding to claim 7, please note that the claimed method steps are product by process limitations. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of product. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Furthermore, it is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of an obvious difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding to claim 8, Tanaka discloses in Figure 1, a lighting unit, particularly for vehicle headlights, (see column 1, lines 17-34).

Regarding to claim 10, Tanaka discloses in Figure 1, the optical compensating filter (14 and 15) is equally divided between two sides of the outer envelope (6) separated by a longitudinal axis at a lower portion of the outer envelope in an operating position.

Regarding to claim 11, Tanaka discloses in Figure 1, the optical compensating filter compensate for yellowish light (by using the different color pigments, see column 6, lines 51-54) so that a light output has reduced yellowish coloration.

Regarding to claim 12, Tanaka discloses in Figure 1, a condensate having a particular color formed in the discharge vessel, the optical compensating filter being configured to compensate for the particular color so that a light output of the gas-discharge lamp has reduced coloration of the particular color.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent No. 0,935,277 to Tanaka in view of U.S. Patent No. 5,039,912 to Van Vliet.

Regarding to claim 3, Tanaka discloses in Figure 1, a gas-discharge lamp having a discharge vessel (1), two electrodes (2), a cap (7), an outer envelope (6), and a filling in the discharge vessel (1) comprising a metal halide (see column 5, lines 34-45), characterized in that the outer envelope (6) is partially coated with an optical compensating filter (14 and 15) of a color complementary to the color of the metal halide.

However, Tanaka does not specifically disclose that the compensating filter comprises an interference filter.

Van Vliet teaches in Figure 1, a gas-discharge lamp having an interference filter (15) for the purpose of achieving the desired radiation.

Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilize the interference filter of Van Vliet for the gas discharge lamp of Tanaka in order to achieve the desired radiation.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent No. 0,935,277 to Tanaka in view of U.S. Patent No. 5,111,105 to Yamamoto.

Regarding to claim 5, Tanaka discloses in Figure 1, a gas-discharge lamp having a discharge vessel (1), two electrodes (2), a cap (7), an outer envelope (6), and a filling in the discharge vessel (1) comprising a metal halide (see column 5, lines 34-45), characterized in that the outer envelope (6) is partially coated with an optical compensating filter (14 and 15) of a color complementary to the color of the metal halide.

However, Tanaka does not specifically disclose an additional optical filter provided for color shifting purposes.

Yamamoto teaches in Figures 2 and 3, a lamp having a optical filter (8) for providing for color shifting purposes (see column 2, lines 1-18) for the purpose of achieving desired color so when the passing vehicle coming from the opposite direction that the other driver is not dazed by the glare of the headlight.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilize the optical filter of Yamamoto for the gas discharge lamp of Tanaka in order to achieve desired color so when the passing vehicle coming from the opposite direction that the other driver is not dazed by the glare of the headlight.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent No. 0,935,277 to Tanaka in view of U.S. Patent No. 6,583,564 to Kiryu.

Regarding to claim 8, Tanaka discloses in Figure 1, a gas-discharge lamp having a discharge vessel (1), two electrodes (2), a cap (7), an outer envelope (6), and a filling in the discharge vessel (1) comprising a metal halide (see column 5, lines 34-45), characterized in that the outer envelope (6) is partially coated with an optical compensating filter (14 and 15) of a color complementary to the color of the metal halide.

However, Tanaka does not specifically disclose the optical compensating filter extends over a circumference of the outer envelope at an angular range of approximately 170°.

Kiryu teaches in Figure 1, a gas-discharge lamp having the optical compensating filter extends over a circumference of the outer envelope at an angular range of

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approximately 170° (see column 6, lines 55-62) for the purpose of filtering unwanted light and achieving the desired light pattern.

Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilize the optical compensating filter of Kiryu for the gas discharge lamp of Tanaka in order to filter the unwanted light and achieve the desired light pattern.

Response to Arguments

9. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,608,227 to Dierks.

U.S. Patent No. 5,952,768 to Strok.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalei Dong whose telephone number is (571)272-2370. The examiner can normally be reached on 8 A.M. to 5 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar Patel can be reached on (571)272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.D.
October 16, 2006


Dalei Dong
Patent Examiner
Art Unit 2879